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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,817	01/17/2002	Takahiro Kimoto	Q68117	5354
7590	02/22/2006		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3213			LEE, RICHARD J	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/046,817	KIMOTO, TAKAHIRO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Richard Lee	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-36 is/are allowed.
- 6) Claim(s) 37-39 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

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1. Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At claim 39, line 2, the particular claim to "etc." gives the claim infinite possibility in patenting, thereby rendering the claim vague and indefinite.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 37-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyamoto of record (6,574,277).

Miyamoto discloses a moving picture coding apparatus as shown in Figure 1, and the same motion video encoding device and method which encodes each block of an input image and generates a coded data, and a machine readable record medium storing a program for instructing a microprocessor unit to execute a motion video encoding method which encodes each block of an input image and generates a coded data as claimed in claims 37-39, comprising the same code counting means for monitoring the coded data and thereby counting the code volume from the latest synchronization code pattern inserted in the coded data to coded data of the target block (see column 5, lines 49-62); data loss probability estimation means for estimating the probability that data loss will occur to the target block due to transmission error, based on the code volume and a preset error probability per bit (see column 7, line 17 to column 8, line 50);

degradation estimation calculating means for calculating a degradation estimation as an expected value of image degradation occurring to the target block due to data loss caused by transmission error based on the data loss probability (see column 6, line 35 to column 7, line 4); and mode selection means for selecting an encoding mode for the target block by referring to the degradation estimation (see column 6, line 35 to column 7, line 4).

4. Regarding the applicant's arguments at pages 28-29 of the amendment filed December 1, 2005 concerning in general that "... Miyamoto teaches a counter which indicates the distance between a synchronizing pattern inserted into coded data and the target small block. This value is used in calculating the probability that the coded data of the small block will be lost due to an error during transmission of the data. As the distance of the data from the immediately preceding synchronizing pattern increases, the probability of data loss accompanying the occurrence of an error increases. The probability that data loss will occur due to error during transmission is estimated block by small block and the degree of image quality degradation is estimated block by small block ... The probability that data in a certain small block will be lost is represented by a monotonously increasing function of distance from a synchronizing pattern. In this scheme, i.e. using the reverse direction, data loss probability is still calculated using the distance from the synchronization pattern, only this time the distance measured is the reverse distance. Thus, Miyamoto does not teach or disclose estimating the probability that data loss will occur due to a preset error probability per bit ...", the Examiner respectfully disagrees. The data loss probability estimation unit 4 of Miyamoto is provided with information from counter 5 for calculating an estimation of data loss probability. Counter 5 monitors coded data produced by the code converter 6 and measures the amount of code in an interval or number of blocks in

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an interval as the distance between the position at which the synchronizing pattern has been inserted and a target small block (see column 5, lines 44-62). The information from counter 5 provided to the data loss probability estimation unit 4 therefore includes the coded data and the measuring of the amount of code, and ultimately the counter 5 provides an output which indicates the distance between the synchronizing pattern inserted into the coded data and the small block of interest to be used in calculating the probability that the coded data of the small block will be lost due to an error during transmission of the data. In addition, since a monotonously increasing function of the value of distance between a position at which a synchronizing pattern has been inserted and a target small block is used for calculating the estimation of data loss probability (see column 5, lines 44-48), the monotonously increasing function therefore is representative of the preset error probability per bit as claimed. As stated by the applicant, as the distance of the data from the immediately preceding synchronizing pattern increases, the probability of data loss accompanying the occurrence of an error increases. The smallest amount of distance between the synchronizing pattern inserted into the coded data and the target small block as represented by the monotonously increasing function, for example, may be used as the claimed preset error probability per bit. Hence, the data loss probability estimation means 4 of Miyamoto provides the same estimating the probability that data loss will occur to the target block due to transmission error, based on the code volume (i.e. coded data and amount of code measured provided by counter 5) and a preset error probability per bit (i.e. as provided by the monotonously increasing function for estimating of data loss probability).

5. Claims 1-36 is allowed.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (571) 272-7333. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m., with alternate Fridays off.

*R. Lee*  
RICHARD LEE  
PRIMARY EXAMINER

Richard Lee/r1 *rl*

2/17/06